

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION**

**TRAYCI NICOLE ALFARO,**

Plaintiff,

No. 6:23-cv-00811-MK

v.

**ORDER**

**RODNEY A. VAN DERLIN, et al.,**

Defendants.

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AIKEN, District Judge.

This case comes before the Court on a Findings and Recommendation filed by Magistrate Judge Mustafa Kasubhai. ECF No. 8. Judge Kasubhai recommends that this case be dismissed with prejudice based on lack of jurisdiction and for failure to notify the Clerk of Court of a change in Plaintiff's address.

Under the Federal Magistrates Act, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and recommendations, "the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review.

See *Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”). Although no review is required in the absence of objections, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court should review the recommendation for “clear error on the face of the record.”

In this case, no party has filed objections and the time for doing so has passed. All mailings sent to Plaintiff have been returned as undeliverable, with the note from the postal service that Plaintiff’s listed address is vacant. The Court has reviewed the F&R and finds no error. The F&R is therefore ADOPTED and this case is DISMISSED. However, because dismissal is based on lack of jurisdiction, dismissal shall be without prejudice but without leave to refile in the District of Oregon. Final judgment shall be entered accordingly.

It is so ORDERED and DATED this 25th day of October 2023.

/s/Ann Aiken  
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ANN AIKEN  
United States District Judge